

STATE OF MICHIGAN
COURT OF APPEALS

HAYWOOD HARRISON, P.C.,
Plaintiff-Appellee,

v

WILLIAM MONTGOMERY,
Defendant-Appellant,

and

CCMS ASSOCIATES, INC.,
Defendant.

UNPUBLISHED
September 28, 2006

No. 268642
Chippewa Circuit Court
LC No. 04-007261-CK

Before: Borrello, P.J., and Jansen and Cooper, JJ.

PER CURIAM.

Defendant Montgomery (defendant) appeals as of right the trial court's order granting summary disposition for plaintiff. We affirm. This appeal is being decided without oral argument. MCR 7.214(E).

Defendant signed a legal services contract for representation by plaintiff. Over the course of the next several years, plaintiff represented both defendant and his corporation, CCMS, in two environmental lawsuits. When CCMS and defendant refused to pay substantial legal bills, plaintiff sued both, asserting claims for breach of contract, unjust enrichment, and account stated.

Plaintiff obtained a judgment against CCMS, and then moved for summary disposition against defendant pursuant to MCR 2.116(C)(9) and (10). The trial court granted plaintiff's motion, ruling that in the absence of a response to plaintiff's affidavit of account, plaintiff had put forth a *prima facie* case that it was owed \$75,538.73. The trial court also found that defendant owned the property that was the subject of the litigation, that he had received individual benefits from plaintiff's representation over the course of time, and that it would be inequitable not to hold defendant liable for plaintiff's accumulated legal fees.

We review a trial court's decision on a motion for summary disposition *de novo* to determine whether the moving party was entitled to judgment as a matter of law. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

As an initial matter, we agree with defendant that he did not sign the legal services as an individual, but rather as a corporate officer. *St Joseph Valley Bank v Napoleon Motors Co*, 230 Mich 498, 501; 202 NW 933 (1925). Thus, no express contract required defendant, as an individual, to pay plaintiff. *Id.*

Even though a contract may not exist between two parties, under the equitable doctrine of unjust enrichment, a person who has been unjustly enriched at the expense of another is required to make restitution as though a contract existed. *Kammer Asphalt Paving Co v East China Twp Schools*, 443 Mich 176, 185; 504 NW2d 635 (1993). This equitable doctrine, based on the legal fiction of quasi-contract or constructive contract, implies an obligation to pay for benefits received in order to insure that justice is done. *Id.* at 185-186. A quasi-contractual obligation is present when the defendant receives a benefit from the plaintiff, and it would be inequitable for the defendant to retain that benefit without payment. *Belle Isle Grill Corp v Detroit*, 256 Mich App 463, 478; 666 NW2d 271 (2003).

We find that defendant obtained substantial individual benefit from the legal representation provided by plaintiff. Defendant's admissions and other evidence before the trial court showed that defendant owned the land that was the subject of both lawsuits against him as an individual. We conclude that it was inequitable for defendant to individually reap the benefit of the legal services provided to CCMS without paying for those services.¹ See *Keywell & Rosenfeld v Bithell*, 254 Mich App 300, 327-330; 657 NW2d 759 (2002). The trial court properly granted summary disposition for plaintiff with respect to the unjust enrichment claim.

Because there was no enforceable written contract between defendant and plaintiff, the trial judge in this case did not err by examining facts outside the written terms of the contract that existed between plaintiff and CCMS.

In light of our conclusion that defendant was unjustly enriched in the amount of plaintiff's unpaid legal fees, we decline to address whether plaintiff was alternatively entitled to recover this amount on a theory of account stated.

Affirmed.

/s/ Stephen L. Borrello

/s/ Kathleen Jansen

/s/ Jessica R. Cooper

¹ It is true that the law will not imply a contract between two parties when an express agreement covering the same subject matter already exists between those same parties. *Belle Isle Grill, supra* at 478. However, as noted, the express contract in this case existed only between plaintiff and CCMS, and did not expressly apply to defendant Montgomery as an individual.